IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

Assistant Commercial Taxes Officer

Versus

M/s. Supreme Sales Corporation

S.B. SALES TAX REVISION PETITION NO.90/2006

DATE OF ORDER : 10/10/2006

Hon'ble Shri Justice Ajay Rastogi

Shri R.B. Mathur, for petitioner

BY THE COURT:

Instant revision petition has been filed against the order passed by the Tax Board dated 17th November, 2005 whereby while upholding the order of Dy. Commissioner [Appeals], the finding recorded by the Assessing Authority in exercise of power u/s.77(8) of Rajasthan Sales Tax Act, 1994 was set aside.

The physical verification was made on 28th April, 1998 where it was found that 11 cartoons of cosmetic goods were not recorded in the books of account and after notice was served, when no satisfactory explanation came, the Assessing Authority vide order dated 28th April, 1998 in exercise of power u/s.77(8) of the Act imposed penalty of a sum of Rs.22716/-. Against the said order, the assessee preferred appeal before the Dy. Commissioner [Appeals] and the Appellate Authority after taking into consideration the material set aside the order of the Assessing Authority vide order dated 4th May, 2004. Against which, further appeal was preferred by the Revenue before the Tax Board where the finding was recorded that physical verification was made on 28th

April, 1998 and 11 cartoons of cosmetic goods were found which were not recorded in the books of account, but explanation was furnished by the assessee that a day before the shop was closed and bill and builty were not received along with the goods. In the absence whereof, he could not enter these goods in his books of account. It was observed by the Tax Board that explanation furnished by the assessee was not taken care of by the Assessing Authority while imposing penalty upon him. The learned Tax Board satisfied with the explanation, arrived to a conclusion that in the absence of explanation being taken note of, very imposition of penalty upon the assessee was not justified.

I do not find any error in the finding recorded by the Tax Board and apart from it, there is no legal question involved, which requires consideration in the present revision petition.

Consequently, the revision petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRBOHRA,JR.P.A.